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JUL 18 2014

**SECRETARY, BOARD OF
OIL, GAS & MINING**

**BEFORE THE BOARD OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH**

NOTICE OF AGENCY ACTION FOR AN ORDER FORFEITING TO THE STATE OF UTAH ALL INTERESTS IN THE CERTIFICATE OF DEPOSIT #8517289131 IN THE AMOUNT OF \$40,000.00 BEING HELD BY WELLS FARGO BANK FOR AND ON BEHALF OF THE STATE OF UTAH; AND FORFEITING TO THE STATE OF UTAH THE SURETY BOND OKC605A213 IN THE AMOUNT OF \$80,000.00 PROVIDED BY AMERICAN SAFETY CASUALTY INSURANCE COMPANY; AND DIRECTING THE DIVISION TO USE THE SUMS FORFEITED FOR THE PLUGGING AND ABANDONMENT OF THE FOLLOWING WELLS OPERATED BY QUANECO LLC: CRANE 4-4; CRANE 12-4; STACEY HOLLOW 14-35; MURPHY RIDGE 1-32; AND CRANE 16-4 LOCATED IN RICH COUNTY, UTAH.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER**

Docket No.: 2014-013
Cause No.: 281-01

On June 25, 2014, the Board of Oil, Gas and Mining ("**Board**") heard arguments on the Division of Oil, Gas and Mining's ("**Division**") Notice of Agency Action seeking an Order from the Board forfeiting to the Division Quaneco, LLC's ("**Quaneco**") reclamation surety accounts, specifically the certificate of deposit account #8517289131, held at Wells Fargo Bank in the principal sum of \$40,000.00 ("**\$40,000 CD Account**") and the surety bond #OKC605213, guaranteed by American Safety Casualty Insurance Company in the principal sum of \$80,000.00 ("**\$80,000 Surety Bond**"), which accounts serve as reclamation surety for the Crane 4-4, Crane

12-4, Stacey Hollow 14-35, Murphy Ridge 1-32, and Crane 16-4 wells, located in Rich County, Utah ("**Subject Wells**").

The following Board members were present and participated in the hearing: Vice Chairman Kelly L. Payne, Carl F. Kendell, Michael R. Brown, Susan S. Davis, Chris D. Hansen, and Gordon L. Moon. Chairman Ruland J. Gill, Jr. was unable to attend. Assistant Attorney General Michael S. Johnson represented the Board.

Clinton Dworshak, Division Compliance Manager for the Oil and Gas Section, was present and appeared as a witness for the Division. Assistant Attorney General Kassidy J. Wallin represented the Division.

With the exception of Wells Fargo Bank, no interested party filed an objection or other response to the Division's Notice of Agency Action, and no interested party appeared or participated in the hearing, either through counsel or pro se. There was no public comment presented to the Board.

Scott H. Clark of the law firm Ray, Quinney & Nebeker, P.C. appeared as counsel for Wells Fargo at the hearing and filed a Response to the Division's Notice of Agency Action on March 5, 2014. The Response indicated that: (i) there had been claims made on the \$40,000 CD Account, (ii) those claimants should be joined as "involuntary parties defendant," and (iii) Wells Fargo tendered the \$40,000 CD Account to the Division subject to further orders of the Board. Wells Fargo Response at 3. At the hearing, Mr. Clark indicated that since the claimants to the \$40,000.00 CD Account had signed written disclaimers of interest, which have been filed as part of the record in this Cause, Wells Fargo withdrew its request for those claimants to be joined as "involuntary parties defendant," and expressed his support that the \$40,000 CD Account be forfeited to the Division.

NOW THEREFORE, the Board, having fully considered the testimony adduced and the exhibits received at the hearing, being fully advised, and good cause appearing, hereby makes and enters the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. Quaneco, LLC is a limited liability company with its principal place of business at 22801 Ventura Blvd., Suite 200, Woodland Hills, California, 91364. Quaneco was registered to do business in Utah and was in good standing as of January 2014. Harrison Schumacher is the manager of Quaneco.

2. American Safety Casualty Insurance Company is a corporation authorized to do business in Utah. Its principal place of business is 100 Galleria Parkway, SE Suite 700, Atlanta, Georgia, 30339.

3. Wells Fargo Bank, N.A. is a banking corporation with offices in Utah.

4. Quaneco is the operator of the following wells: Crane 4-4, Crane 12-4, Stacey Hollow 14-35, Murphy Ridge 1-32, and Crane 16-4, all located in Rich County, Utah.

5. Quaneco originally established a \$120,000 state-wide surety to cover the plugging and abandonment of the Subject Wells. The surety consists of Certificate of Deposit #8517289131 held at Wells Fargo Bank in the principal sum of \$40,000.00 and the Surety Bond #OKC605213, guaranteed by American Safety Casualty Insurance Company in the principal sum of \$80,000.00.

6. Quaneco's \$120,000 state-wide reclamation surety classification was changed to individual depth bonds in April 2014. Based on the depths of the wells, the \$40,000 CD Account was assigned to cover the Stacey Hollow 14-35 well, and the remaining wells were covered by the \$80,000 Surety Bond. At no point did the change in classification of the reclamation surety place the Division at risk since the depths of the wells allowed for bond coverage in these amounts.

7. The Crane 4-4, Crane 12-4, and Stacey Hollow 14-35 wells were completed in 2001. The Murphy Ride 1-32 well was completed in 2002. The Crane 16-4 well was spud in 2011 but was never completed. None of the Subject Wells have ever produced oil or gas.

8. On January 12, 2012, approximately ten years after the wells had been completed, and having shown no production from any of the Subject Wells, Quaneco submitted a request to the Division for a one-year extension of the shut-in temporarily-abandoned status for four of the Subject Wells (excluding the Crane 16-4). The Division denied the request on February 9, 2012.

9. On April 2, 2013, the Division issued a Notice of Violation (“**NOV**”) to Quaneco for four of the Subject Wells (excluding the Crane 16-4). The NOV was based on Utah Administrative Code R649-3-36 “Shut-in and Temporarily Abandoned Wells.” The NOV required Quaneco to provide full cost bonding for each of the wells no later than April 30, 2013. The NOV also required Quaneco to either submit all information as required by R649-3-36 or plug and abandon the Subject Wells or place the Subject Wells on production by April 30, 2013.

10. Quaneco failed to commence plugging work on the Subject Wells after receipt of the NOV.

11. In August 2013, Quaneco agreed to plug and abandon the Subject Wells in the fall of 2013. On September 23, 2013 submitted Sundry Notices to the Division requesting approval to plug and abandon each of the Subject Wells according to the procedures and specifications set forth in the Sundry Notices, including commencing the plugging work on or about October 2, 2013. The Division approved the Sundry Notices.

12. Quaneco failed to commence or complete plugging on the Subject Wells by the fall of 2013.

13. On December 6, 2013, the Division received notice of a judgment levy submitted to Wells Fargo Bank seeking to attach the sums held in the \$40,000 CD Account. Wells Fargo indicated to the Division that it had not released any money from the \$40,000 CD Account.

14. The Division reached out to Quaneco in an effort to obtain assurance from Quaneco that it was financially capable of proceeding with the plugging work for the wells, but the Division did not receive any response from Quaneco.

15. On December 13, 2013, the Division issued a Well Plugging Order requiring all of the Subject Wells to be plugged by Quaneco no later than January 31, 2014.

16. Quaneco failed to commence or complete plugging work on the Subject Wells by January 31, 2014.

17. On January 27, 2014, the Division sent a “Board Action” letter to Quaneco, advising Quaneco to make plugging arrangements for the Subject Wells before February 10, 2014, otherwise the Division would file a Notice of Agency Action with the Board seeking forfeiture of Quaneco’s \$120,000.00 reclamation surety.

18. On February 7, 2014, after receiving no assurance from Quaneco that it would follow through with making plugging arrangements for the Subject Wells, the Division filed the Notice of Agency Action in this Cause.

19. After the filing of the Notice of Agency Action, Quaneco asked the Division for assistance in resolving the plugging issues without forfeiture. The Division generously agreed to allow Quaneco another opportunity to plug the wells, and asked the Board to continue the hearing of the Notice of Agency Action until the June Board hearing.

20. Between February and June 25, 2014—the date of the June Board hearing—the Division went to great effort to assist Quaneco in making plugging arrangements, including facilitating

communication between Quaneco, the landowner, the potential plugging contractor, and others. In the end, an agreement was reached that required Quaneco to pay approximately \$28,000.00 to the plugging contractor, Magna Energy Services (“**Magna**”), who was chosen by Quaneco to complete the plugging work. Based on Quaneco’s promises to Magna that Quaneco would submit the payment, Magna began plugging work in June 2014.

21. As of the date of the hearing, not all of the Subject Wells had been plugged by Magna. However, Magna had incurred significant costs in the plugging work by plugging at least two of the Subject Wells. As of the date of the hearing, Quaneco had not made any payment whatsoever to Magna for the plugging work Magna had performed, and Quaneco had not responded to phone calls and emails from the Division and from Magna asking for an update of Quaneco’s status.

22. Rather than have Magna cease the plugging work it had already started, the Division decided to allow Magna to continue plugging the wells according to the private agreements Magna had reached with Quaneco, the landowner Deseret Land & Livestock, and the Division. This was because Magna had begun plugging in good faith, pursuant to Quaneco’s promises of payment, because asking Magna to cease plugging and pull off would result in increased costs to plug the wells, because there was no objection by the surety company or any other party to allowing Magna to continue the work, and also because the Division believed it was within the Board’s authority to forfeit the bond to pay Magna under these circumstances pursuant to Utah Administrative Code R649-3-1-16.4.5.

23. At the conclusion of the Division’s presentation on the hearing of this cause, the Board members who were present and participated in the hearing voted unanimously (6-0) to grant the relief as requested by the Division.

CONCLUSIONS OF LAW

24. Due and regular notice of the time, place, and purposes of the June 25, 2014 Board hearing was given to all interested parties in the form and manner and within the time required by law and the rules of the Board. Due and regular notice of the filing of the Notice of Agency Action was given to all interested parties in the form and manner and within the time required by law and the rules of the Board.

25. The Board has jurisdiction over the parties and subject matter of this Notice of Agency Action pursuant to Chapter 6 of Title 40 of the Utah Code, and has the power and authority to make and promulgate the order herein set forth.

26. Quaneco, the operator of the Subject Wells, violated Utah Administrative Code R649-3-36 by leaving the wells shut-in without a showing of good cause, without approval from the Division, without proof of well integrity, and without plugging the Subject Wells even after receiving orders from the Division to do so.

27. Quaneco, operator of the Subject Wells, has refused or is unable to conduct plugging and site restoration. This is evidenced by the fact that Quaneco has failed to plug the wells even after being given ample time, multiple extensions, and repeated opportunities by the Division. Refusal and inability is also evidenced by Quaneco's failure to follow through on its promise to pay Magna for the plugging, even after Magna had incurred significant expense. Therefore, forfeiture of Quaneco's reclamation surety is authorized pursuant to Utah Administrative Code R649-3-1-16.1.1 (providing for forfeiture if the "operator refuses or is unable to conduct plugging and site restoration").

28. Pursuant to Utah Administrative Code R649-3-1-16.4.5, the Division is authorized to use the sums forfeited in any manner reasonable and appropriate for the plugging and abandonment

of the wells, including paying the funds directly to Magna.

ORDER

IT IS THEREFORE ORDERED that:

- A. The Division's Notice of Agency Action in this matter is granted.
- B. Certificate of Deposit #8517289131 held at Wells Fargo Bank in the principal sum of \$40,000.00 is hereby forfeited to the Division, and the Division is authorized to use the sums forfeited from this account in any manner reasonable and appropriate for the plugging and abandonment of the wells, including paying the funds directly to Magna.
- C. Surety Bond #OKC605213, guaranteed by American Safety Casualty Insurance Company in the principal sum of \$80,000.00 is hereby forfeited to the Division, and the Division is authorized to use the sums forfeited from this surety bond in any manner reasonable and appropriate for the plugging and abandonment of the wells, including paying the funds directly to Magna.
- D. The Division is authorized to take any and all actions necessary, including the filing of a civil action against Quaneco, to recover all costs in excess of the amount forfeited.
- E. The Board has considered and decided this matter as a formal adjudication, pursuant to the Utah Administrative Procedures Act, Utah Code §§ 63G-4-204 through -208, and the Rules of Practice and Procedure before the Board of Oil, Gas and Mining, Utah Admin. Code R641.
- F. This Findings of Fact, Conclusions of Law, and Order is based exclusively upon evidence of record in this proceeding or on facts officially noted, as weighed and analyzed by the Board in the application of its expertise as set forth in Utah Code Ann. § 40-6-4(2)(a) through (e). This Order constitutes the signed written order stating the Board's decision and the reasons for the decision, as required by the Utah Administrative Procedures Act, Utah Code §63G-4-208, and

the Rules of Practice and Procedure before the Board of Oil, Gas and Mining, Utah Admin. Code R641-109; and constitutes a final agency action as defined in the Utah Administrative Procedures Act and Board rules.

G. Notice of Right of Judicial Review by the Supreme Court of the State of Utah. As required by Utah Code section 63G-4-208(e) through (g), the Board hereby notifies all parties to this proceeding that they have the right to seek judicial review of this Order by filing an appeal with the Supreme Court of the State of Utah within thirty days after the date this Order is entered. Utah Code §§ 63G-4-401(3)(a), -403.

H. Notice of Right to Petition for Reconsideration. As an alternative, but not as a prerequisite to judicial review, the Board hereby notifies all parties to this proceeding that they may apply for reconsideration of this Order. Section 63G-4-302 of the Utah Code, entitled “Agency Review – Reconsideration,” states:

(1)(a) Within 20 days after the date that an order is issued for which review by the agency or by a superior agency under Section 63–46b–12 is unavailable, and if the order would otherwise constitute final agency action, any party may file a written request for reconsideration with the agency, stating the specific grounds upon which relief is requested.

(b) Unless otherwise provided by statute, the filing of the request is not a prerequisite for seeking judicial review of the order.

(2) The request for reconsideration shall be filed with the agency and one copy shall be sent by mail to each party by the person making the request.

(3)(a) The agency head, or a person designated for that purpose, shall issue a written order granting the request or denying the request.

(b) If the agency head or the person designated for that purpose does not issue an order within 20 days after the filing of the request, the request for reconsideration shall be considered to be denied.

Id.

I. The Rules of Practice and Procedure before the Board of Oil, Gas and Mining entitled “Rehearing and Modification of Existing Orders” state:

Any person affected by a final order or decision of the Board may file a petition for rehearing. Unless otherwise provided, a petition for rehearing must be filed no later than the 10th day of the month following the date of signing of the final order or decision for which the rehearing is sought. A copy of such petition will be served on each other party to the proceeding no later than the 15th day of that month.

Utah Admin. Code R. R641-110-100.

See Utah Administrative Code Rule R641-110-200 for the required contents of a petition for rehearing. The Board hereby rules that should there be any conflict between the deadlines provided in the Utah Administrative Procedures Act and the Rules of Practice and Procedure before the Board of Oil, Gas and Mining, the later of the two deadlines shall be available to any party moving to rehear this matter. If the Board later denies a timely petition for rehearing, the aggrieved party may seek judicial review of the order by perfecting an appeal with the Utah Supreme Court within thirty days thereafter.

J. The Board retains exclusive and continuing jurisdiction of all matters covered by this Order and of all parties affected thereby; and specifically, the Board retains and reserves exclusive and continuing jurisdiction to make further orders as appropriate and authorized by statute and applicable regulations.

K. Any signature on a facsimile copy of this Order shall be deemed the equivalent of a signed original for all purposes.

ENTERED this 18th day of July, 2014.

STATE OF UTAH
BOARD OF OIL, GAS AND MINING


Ruland J. Gill, Jr., Chairman

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of July, 2014, I caused a true and correct copy of the foregoing **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER** for Docket No. 2014-013, Cause No. 281-01 to be mailed via Email and First Class Mail, with postage prepaid, to the following:

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A handwritten signature in blue ink, reading "Julie Ann Carter", is written over a horizontal line.